

### **REMARKS**

This amendment is submitted to be fully responsive to Paper No. 20090928. By way of this amendment, claims 1 and 8-10, are amended and new claims 14 and 15 have been added. Support for the amendments to claim 1 is found in paragraphs [0019]-[0024] of U.S. Patent Application Publication US 2007/0208268, corresponding to the above-referenced application. Support for the amendments to claim 10 is found within claim 10 in current form as well as paragraphs [0020]-[0021]. Support for the amendments to claims 8 and 9 is found in [0012]. New claims 14 and 15 find support in paragraphs [0011] and [0024], respectively, of the patent application publication corresponding to the above-referenced application. As such, it is submitted that no new matter has been added to the application by way of these amendments.

With respect to the priority accorded to the pending application, reliance is made as to the documents of record. Currently, claims 1, 3-10, 12 and 13 are rejected under 35 U.S.C. §112, second paragraph. Additionally, claims 1, 3-7, 10 and 13 stand rejected under 35 U.S.C. §103(a) over Gozani et al. (US 2002/0183647 A1) in view of Cameron, Sr. et al. (US 5,364,793). Lastly, claims 8, 9 and 12 stand rejected under 35 U.S.C. §103(a) over Gozani et al. and Cameron, Sr. et al. and further in view Hartaub et al. (US 2001/0037083 A1). Reconsideration and withdrawal of these rejections are requested on the basis of the above amendments and the following remarks.

#### **Remarks Directed to Rejection of Pending Claims 1, 3-10, 12 and 13 under 35 U.S.C. §112, Second Paragraph**

The basis of this rejection with respect to claims 1 and 3-9 is that claim 1 omits structural cooperative relationships between the computing device and the biochemical analyzer, as well as between the display, the computing device, and the biochemical analyzer. (Paper No. 20090928, section 3, page 3). By way of the above amendments, it is submitted that claim 1 now recites

that the biochemical analyzer provides an output signal to the computing device consistent with the teachings found within [0020] and that the display (reference numeral 22) within the computing device 12 provides a first responder with an indication of the neurological status of the subject as detailed in [0019]. With the provision of a biochemical analyzer output signal to the computing device which in turn provides a user with information as to locations of the neurological injury by way of a display, it is respectfully submitted that the operational relationship between the elements of claim 1 has been explicitly recited and the rejection under 35 U.S.C. §112, second paragraph, has been overcome.

Claims 10, 12 and 13 stand rejected under 35 U.S.C. §112, second paragraph, on the basis that claim 10 lacks a step as to how the biochemical analyzer interacts with the neuroconductivity detector. (Paper No. 20090928, section 4, page 3). In response to this rejection, claim 10 has been amended to recite that the neurological injury is indicated to a user when the detected electrical signal is beyond a preselected range of the reference signal or the presence of chemical species or concentrations indicative of the neurological injury or the output signal corresponds to the presence of chemical species or concentrations indicative of the neurological injury. With this amendment to claim 10, reconsideration and withdrawal of the rejection as to claims 10, 12 and 13 under 35 U.S.C. §112, second paragraph, is hereby requested.

In light of the above amendments and remarks, withdrawal of the rejection as to claims 1, 3-10, 12 and 13 under 35 U.S.C. §112, second paragraph, is hereby requested.

**Remarks Directed to Rejection of Claims 1, 3-7, 10 and 13 under  
35 U.S.C. §103(a) over Gozani et al. in View of Cameron, Sr. et al.**

The basis of the rejection is that Gozani et al. discloses all the subject matter of claims 1, 3-7, 10 and 13 with the exception of a biochemical analyzer that samples biological fluid from the subject for the presence of, or concentration chemical species indicative of, neurological injury (*ibid.*, section 6, pages 4-5) for which Cameron, Sr. et al. is cited to bolster this deficiency of Gozani et al. The basis of the rejection is that:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the means of Gozani et al. to include the use of a biochemical analysis of a blood sample to detect the presence of a neurological injury, as per the teachings of Cameron, Sr. et al, since it would provide an additional analysis means for further confirming the presence of an injury in conjunction with a nerve analysis means.

(*Ibid.*, page 5).

Reconsideration of this rejection is respectfully requested on the basis that the claimed invention of either the system of independent claim 1 or the process of independent claim 10 affords an attribute not found in the prior art references of Gozani et al.; Cameron, Sr. et al.; or the combination thereof in that the claimed invention affords guidance as to immediate interventive neuroprotective pharmaceutical treatments, physical transport precautions, or other possible actions that a user such as a first responder coming upon a subject suffering a neurological injury. In contrast, the prior art of record merely provides physiological data for analysis by a clinician as part of an overall workup. The necessity of the inclusion of the teachings of Hartaub et al. with respect to the subject matter of claims 8, 9 and 12 in the outstanding Office Action is considered to be a tacit recognition of the failure of Gozani et al. in combination with Cameron, Sr. et al. to provide treatment suggestions. Further, it is respectfully

submitted that one of ordinary skill in the art would lack a motivation to develop the claimed subject matter based on the teachings of Gozani et al.; Cameron, Sr. et al.; or the combination thereof on the basis of the controlled clinical settings needed for operation of Gozani et al., as well as the detection techniques of Cameron, Sr. et al. that include electrophoresis (abstract), radioimmunoassay, or enzyme-linked immunosorbent assay (column 30, lines 4-55). As such, one of ordinary skill in the art upon reading the prior art references would lack a motivation to provide either a system or process amenable to use by an emergency first responder to categorize the form of injury and begin a treatment regime on site to limit detrimental physiological responses to the injury. In view of the above amendments and remarks, reconsideration and withdrawal of the rejection as to claims 1, 3-7, 10 and 13 under 35 U.S.C. §103(a) over Gozani et al. in view of Cameron, Sr. et al. is requested.

**Remarks Directed to Rejection of Claims 8, 9 and 12 under 35 U.S.C. §103(a) over Gozani et al.; Cameron, Sr. et al.; and Further in View of Hartaub et al.**

The basis of the rejection is that Gozani et al. and Cameron, Sr. et al. are relied upon for the teachings detailed above with respect to the rejections of independent claims 1 and 10 yet are noted to fail to provide a teaching relevant to pharmaceutical treatment protocol and the inclusion of neurologically active pharmaceuticals as well as a means for introducing the same into a subject (Paper No. 20090928, section 7, page 5). Hartaub et al. is cited to bolster this deficiency of the prior art combination of Gozani et al. and Cameron, Sr. et al. through the teaching of administration of morphine by way of an infusion pump. (*Ibid.*, paragraph spanning pages 5-6).

Reconsideration of this rejection is respectfully requested on the basis that one of ordinary skill in the art would not consider morphine to be a neurologically active drug in the

context of the present invention as a drug that impedes pain detection is of little consequence in an individual suffering neuronal injury that by its very nature impedes such sensations and additionally is clinically contraindicated as suppressing neurological responses needed to diagnose and treat the injury. To further emphasize the differences between the claimed invention and the prior art combination, specifically with respect to Hartaub et al., the pending claims have been amended to recite that the pharmaceutical treatments are neuroprotective, with this limitation finding support in paragraph [0012]. As Hartaub et al. is wholly silent as to provision of a neuroprotective pharmaceutical, this represents an additional basis for removal of the outstanding rejection.

In light of the above amendments and remarks, reconsideration and withdrawal of the rejection as to claims 8, 9 and 12 under 35 U.S.C. §103(a) over Gozani et al. in view of Cameron, Sr. et al. and further in view of Hartaub et al. is requested.

#### **Summary**

With entry of this amendment, claims 1, 3-10 and 12-15 are pending in the application. Of these, claims 1 and 8-10 have been amended while claims 14 and 15 are new. Each of these claims is believed to be in allowable form and directed to patentable subject matter. Reconsideration and withdrawal of the outstanding rejections and the passing of this application to allowance are solicited.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-1180.

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Respectfully submitted,

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